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BANNER & WITCOFF

008/009

Response dated 12/09/2005
Response to Office Action mailed 09/09/2005

Application No. 10/044,405

REMARKS

In the current response, Applicant has canceled claims 1-4, 11 and 13-23 in order to advance prosecution of the pending application. Furthermore, claims 6, 8, 9, 10 and 12 have been amended and new dependent claims 24-38 have been added. No new matter has been introduced into the application. Applicant respectfully submits that all pending claims are in condition for allowance and respectfully requests such notification.

Allowable Subject Matter

Applicant would like to thank the Examiner for indicating that claim 5 is allowed. In the current response, Applicant has amended claims 6, 8-10 and 12 to depend from allowed independent claim 5. Therefore, Applicant respectfully submits that claims 6, 8-10 and 12 are also in condition for allowance for at least the same reasons as allowed independent claim 5.

Information Disclosure Statement

In Applicant's previous response filed April 29, 2005, Applicant submitted a supplemental Information Disclosure Statement and fee along with an English abstract of FR 2500309. This was in direct response to the July 2, 2004 Office Action statement that the document was placed in the file but was not considered as it was not in the English language. Applicant respectfully requests that the submitted PTO SB/08a form be returned to the Applicant indicating that document FR 2500309 has been considered by the Examiner.

New claims

Applicant has added new claim 24 which ultimately depends from allowed independent claim 5. Support for new claim 24 can be found in at least paragraph 38 of Applicant's specification. Therefore, for at least this reason Applicant respectfully submits that claim 24 is in allowable condition.

New claims 25-30 and 35-38 constitute reproductions of dependent claims 6, 8, 9 and 12 with changes in the claims to which each such new claim is directly dependent (all are ultimately dependent upon claim 5, which has been allowed).

New claims 31-34 ultimately depend upon claim 5 as well (via reference to new claim 27). These claims each contains one member of the Markush group set out in claim 27 (which is a reproduction of claim 7 but for its claim dependency relationship).

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Entry of new claims 25-38 is requested on the basis that support for these may be found in the previously existing claim set, and such new claims merely constitute new dependent claim permutations of the subject matter set forth in claims 6, 8, 9 and 12.

Accordingly, the allowance of the new claims is requested.

Claims Rejected Under 35 USC §102 & 35 USC §103

Applicant respectfully submits that the pending rejections are moot in light of Applicant's current response. In particular, Applicant has canceled claims 1-4, 11 and 13-23 in order to advance prosecution of the present case and allow the remaining pending claims to issue. In addition, all pending claims ultimately depend from allowed independent claim 5. Applicant reserves the right to file a continuation application in order to further prosecute the canceled claims.

Applicant respectfully submits that pending claims are in condition for allowance. A notice to this effect is respectfully requested. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,

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